

REFERENCE TITLE: elections; manual audit sample

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HB 2418

Introduced by
Representatives Gallardo, Sinema: Campbell CH, Lopes, Lujan, Prezelski

AN ACT

AMENDING SECTION 16-602, ARIZONA REVISED STATUTES; RELATING TO CONDUCT OF ELECTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 16-602, Arizona Revised Statutes, is amended to
3 read:

4 16-602. Removal of ballots from ballot boxes; disposition of
5 ballots folded together or excessive ballots;
6 designated margin; hand counts; vote count
7 verification committee

8 A. The ballots cast in the election shall first be removed from the
9 ballot box and counted without being opened, except as may be necessary to
10 ascertain that the number of ballots cast corresponds with the number of
11 names on the poll lists.

12 B. If two or more ballots are found folded together appearing as a
13 single ballot, they shall be laid aside until the count of the ballots is
14 completed. If it then appears by comparison of the count with the number of
15 names on the poll lists that the ballots thus folded together were cast by
16 one elector, they shall be destroyed. If the ballots in the box are still
17 found to exceed in number the names on the poll lists, the ballots, except
18 those destroyed, shall be replaced in the box, and one of the judges, without
19 looking in the box, shall draw therefrom, one at a time, and destroy
20 unopened, a number of ballots equal to the excess, and the election board
21 shall record on the poll lists the number of ballots so destroyed and shall
22 then sign the poll list.

23 C. For each countywide primary, general and presidential preference
24 election, the county officer in charge of the election shall conduct a hand
25 count at the central counting center ~~of~~ **IN THE FOLLOWING ORDER:**

26 1. At least two per cent of the precincts in that county, or two
27 precincts, whichever is greater, **SHALL BE SELECTED AT RANDOM FROM A POOL**
28 **CONSISTING OF EVERY PRECINCT IN THAT COUNTY.** The county political party
29 chairman for each political party that is entitled to continued
30 representation on the state ballot or the chairman's designee shall conduct
31 the selection of the precincts to be hand counted. The precincts shall be
32 selected by lot without the use of a computer, and the order of selection by
33 the county political party chairmen shall also be by lot. The selection of
34 the precincts shall not begin until all ballots voted in the precinct polling
35 places have been delivered to the central counting center. The unofficial
36 vote totals from all precincts shall be made public before selecting the
37 precincts to be hand counted. Only the ballots cast in the polling places
38 and ballots from direct recording electronic machines shall be included in
39 the hand counts conducted pursuant to this section. Provisional ballots,
40 conditional provisional ballots and write-in votes shall not be included in
41 the hand counts and the early ballots shall be grouped separately by the
42 officer in charge of elections for purposes of a separate manual audit
43 pursuant to subsection G.

1 2. FROM THE PRECINCTS THAT WERE RANDOMLY SELECTED PURSUANT TO
2 PARAGRAPH 1, the races to be counted ON ALL OF THE BALLOTS FROM EACH OF THE
3 SELECTED PRECINCTS shall include at least four contested races ON EACH
4 BALLOT, and shall include one federal race FROM EACH PRECINCT'S BALLOTS, one
5 statewide candidate race FROM EACH PRECINCT'S BALLOTS, one ballot measure
6 FROM EACH PRECINCT'S BALLOTS and one legislative race on ~~those~~ EACH
7 PRECINCT'S ballots. For the purposes of this section, a write-in candidacy in
8 a race does not constitute a contested race. In elections in which there are
9 candidates for president, the presidential race ON EACH SELECTED PRECINCT'S
10 BALLOTS shall be added to the four categories of hand counted races. Each
11 county chairman of a political party that is entitled to continued
12 representation on the state ballot or the chairman's designee shall select by
13 lot the individual races to be hand counted.

14 3. The county chairman of each political party shall designate and
15 provide the number of election board members as designated by the county
16 officer in charge of elections who shall perform the hand count under the
17 supervision of the county officer in charge of elections. For each precinct
18 that is to be audited, the county chairmen shall designate at least three
19 board workers who are registered members of any or no political party, and
20 the county election officer shall provide for compensation for those board
21 workers. If the board workers selected by the county chairmen fail to appear
22 and perform the hand count pursuant to this subsection, ~~no~~ THE COUNTY OFFICER
23 IN CHARGE OF ELECTIONS SHALL CONDUCT THE hand count ~~will be conducted and the~~
24 ~~electronic tabulation is deemed the official count.~~

25 D. If the randomly selected races result in a difference in any race
26 that is less than the designated margin when compared to the electronic
27 tabulation of those same ballots, the results of the electronic tabulation
28 constitute the official count for that race. If the randomly selected races
29 result in a difference in any race that is equal to or greater than the
30 designated margin when compared to the electronic tabulation of those same
31 ballots, a second hand count of those same ballots and races shall be
32 performed. If the second hand count results in a difference in any race that
33 is less than the designated margin when compared to the electronic tabulation
34 for those same ballots, THE electronic tabulation constitutes the official
35 count for that race. If the second hand count results in a difference in any
36 race that is equal to or greater than the designated margin when compared to
37 the electronic tabulation for those same ballots, the hand count shall be
38 expanded to include a total of twice the original number of randomly selected
39 precincts. Those additional precincts shall be selected by lot without the
40 use of a computer.

41 E. In any expanded count of randomly selected precincts, if the
42 randomly selected precinct hand counts result in a difference in any race
43 that is equal to or greater than the designated margin when compared to the
44 electronic tabulation of those same ballots, the final hand count shall be
45 extended to include the entire jurisdiction for that race. If the

1 jurisdictional boundary for that race would include any portion of more than
2 one county, the final hand count shall not be extended into the precincts of
3 that race that are outside of the county that is conducting the expanded hand
4 count. If the expanded hand count results in a difference in that race that
5 is less than the designated margin when compared to the electronic tabulation
6 of those same ballots, the electronic tabulation constitutes the official
7 count for that race.

8 F. If a final hand count is performed for an entire jurisdiction for a
9 race, the final hand count shall be repeated for that race until a hand count
10 for that race for the entire jurisdiction results in a count that is
11 identical to one other hand count for that race for the entire jurisdiction
12 and that hand count constitutes the official count for that race.

13 G. After the electronic tabulation of early ballots and at one or more
14 times selected by the chairman of the political parties entitled to continued
15 representation on the ballot or the chairman's designee, the county officer
16 in charge of elections shall randomly select one or more batches of early
17 ballots that have been tabulated to include at least one batch from each
18 machine used for tabulating early ballots and shall securely sequester those
19 ballots along with their unofficial tally reports for a postelection manual
20 audit. The county officer in charge of elections shall randomly select from
21 those sequestered early ballots a number equal to one per cent of the total
22 number of early ballots cast or five thousand early ballots, whichever is
23 less. From those randomly selected early ballots, the county officer in
24 charge of elections shall conduct a manual audit of the same races that are
25 being hand counted pursuant to subsection C. If the manual audit of the
26 early ballots results in a difference in any race that is equal to or greater
27 than the designated margin when compared to the electronically tabulated
28 results for those same early ballots, the manual audit shall be repeated for
29 those same early ballots. If the second manual audit results in a difference
30 in that race that is equal to or greater than the designated margin when
31 compared to the electronically tabulated results for those same early
32 ballots, the manual audit shall be expanded only for that race to a number of
33 additional early ballots equal to one per cent of the total early ballots
34 cast or an additional five thousand ballots, whichever is less, to be
35 randomly selected from the batch or batches of sequestered early ballots. If
36 the expanded early ballot manual audit results in a difference for that race
37 that is equal to or greater than the designated margin when compared to any
38 of the earlier manual counts for that race, the manual counts shall be
39 repeated for that race until a manual count results in a difference in that
40 race that is less than the designated margin. If at any point in the manual
41 audit of early ballots the difference between any manual count of early
42 ballots is less than the designated margin when compared to the electronic
43 tabulation of those ballots, the electronic tabulation shall be included in
44 the canvass and no further manual audit of the early ballots shall be
45 conducted.

1 H. During any hand count of early ballots, the county officer in
2 charge of elections and election board workers shall attempt to determine the
3 intent of the voter in casting the ballot.

4 I. Notwithstanding any other law, the county officer in charge of
5 elections shall retain custody of the ballots for purposes of performing any
6 required hand counts and the officer shall provide for security for those
7 ballots.

8 J. The hand counts prescribed by this section shall begin within
9 twenty-four hours after the closing of the polls and shall be completed
10 before the canvassing of the election for that county. The results of those
11 hand counts shall be provided to the secretary of state, who shall make those
12 results publicly available on the secretary of state's web site.

13 K. For any county in which a hand count has been expanded to all
14 precincts in the jurisdiction, the secretary of state shall make available
15 the escrowed source code for that county to the superior court. The superior
16 court shall appoint a special master to review the computer software. The
17 special master shall have expertise in software engineering and shall not be
18 affiliated with an election software vendor nor with a candidate and shall
19 sign and be bound by a nondisclosure agreement regarding the source code
20 itself, and shall issue a public report to the court and to the secretary of
21 state regarding the special master's findings on the reasons for the
22 discrepancies. The secretary of state shall consider the reports for
23 purposes of reviewing the certification of that equipment and software for
24 use in this state.

25 L. The vote count verification committee is established in the office
26 of the secretary of state and all of the following apply:

27 1. At least thirty days before the 2006 primary election, the
28 secretary of state shall appoint seven persons to the committee, no more than
29 three of whom are members of the same political party.

30 2. Members of the committee shall have expertise in any two or more of
31 the areas of advanced mathematics, statistics, random selection methods,
32 systems operations or voting systems.

33 3. A person is not eligible to be a committee member if that person
34 has been affiliated with or received any income in the preceding five years
35 from any person or entity that provides election equipment or services in
36 this state.

37 4. The vote count verification committee shall meet and establish one
38 or more designated margins to be used in reviewing the hand counting of votes
39 as required pursuant to this section. The committee shall review and
40 consider revising the designated margins every two years for use in the
41 applicable elections. The committee shall provide the designated margins to
42 the secretary of state at least ten days before the primary election and at
43 least ten days before the general election, and the secretary of state shall
44 make that information publicly available on the secretary of state's web
45 site.

1 5. Members of the vote count verification committee are not eligible
2 to receive compensation but are eligible for reimbursement of expenses
3 pursuant to title 38, chapter 4, article 2. The committee is a public body
4 and its meetings are subject to title 38, chapter 3, article 3.1 and its
5 reports and records are subject to title 39, chapter 1.